

**COMMITTEE ON SUPERIOR COURT  
MINUTES**

Friday, September 10, 2010  
Arizona State Courts Building  
Conference Room 119 A/B  
1501 W. Washington Street  
Phoenix, AZ 85007

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**MEMBERS PRESENT:**

Honorable James A. Soto, Chair	Mr. William G. Klain
Honorable Eddward Ballinger	Honorable Kenneth Lee - <i>telephonic</i>
Honorable Michael J. Burke	Honorable David Mackey - <i>telephonic</i>
Honorable Michael J. Cruikshank - <i>telephonic</i>	Honorable Margaret Maxwell
Honorable Robert Duber II	Honorable Stephen F. McCarville
Honorable Andrew Gould	Honorable Colleen McNally
Honorable Sue Hall	Honorable Patricia Noland
Mr. Joshua Halversen - <i>telephonic</i>	Mr. Marcus Reinkensmeyer
Mr. Tim Hardy	Honorable Michala Ruechel
Honorable Charles V. Harrington - <i>telephonic</i>	Honorable Randall Warner
Honorable Carey S. Hyatt	Ms. Susan Wilson

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**MEMBERS ABSENT:**

Honorable James Conlogue	Honorable Monica Stauffer
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**PRESENTERS/GUESTS:**

Ms. Katy Proctor, AOC	Mr. Ken Kung, AOC
Mr. Renny Rapier, AOC	Ms. Sharleen Decker, AOC
Mr. Stewart Bruner, AOC	Ms. Patience Huntwork, AOC
Ms. Melinda Hardman, AOC	Ms. Nancy Swetnam, AOC
Honorable Ronald Reinstein	

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**STAFF:**

Ms. Kay Radwanski, AOC	Ms. Tama Reily, AOC
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## **I. REGULAR BUSINESS**

### **A. Welcome and Opening Remarks**

With a quorum present, the September 10, 2010, meeting of the Committee on Superior Court (COSC) was called to order by Honorable James A. Soto, chair, at 10:05 a.m.

Judge Soto welcomed the following new committee members:

- Honorable Michala Ruechel, Presiding Judge, Superior Court in Navajo County
- Honorable Carey Hyatt, Family Court Presiding Judge, Superior Court in Maricopa County
- Honorable Randall Warner, Superior Court in Maricopa County
- Honorable Patricia Noland, Clerk of the Court, Superior Court in Pima County
- William Klain, State Bar of Arizona Representative

He also welcomed back returning members Judges Robert Duber II, Kenneth Lee, and David Mackey, along with Clerk of Court Honorable Sue Hall.

In addition, Judge Soto made the following announcements:

- New Judge Orientation (NJO) is scheduled for September 13-16, 2010, at the AOC Judicial Education Center (JEC) in Phoenix.
- The 2010 Family Law Conference is scheduled for October 14-15, 2010, also at the JEC.
- A Legal Competency and Restoration Training for mental health experts seeking to become court-approved evaluators will take place in Tucson on October 25-27, 2010.
- The Second Annual Domestic Violence Summit is scheduled for March 3, 2011, at the Marriott Buttes Resort in Tempe.

### **B. Approval of Minutes**

The draft minutes from the May 14, 2010, meeting of the COSC were presented for approval.

**MOTION:** To approve the May 14, 2010, COSC meeting minutes as presented. Motion seconded. Approved unanimously.  
COSC-10-08

## **II. BUSINESS ITEMS/POTENTIAL ACTION ITEMS**

### **A. Legislative Update**

Ms. Katy Proctor, AOC legislative liaison, presented an update on legislation that will impact superior courts. Her comments focused on five legislative proposals for which she requested the committee support or oppose each proposal.

2011-01: probation funding; counties with population of two million or more persons  
Would make technical changes to A.R.S. § 12-269, which provides funds to Maricopa County, so that it conforms to A.R.S. § 12-114.01, which funds the remaining 14 counties

and was amended in the last session, so that the application of the probation assessment is uniform statewide.

**MOTION:** To support proposal *2011-01: probation funding; Maricopa County*. Motion seconded. Approved unanimously. COSC-10-09

2011-02: restoration of right to possess firearm, mentally ill persons

Seeks to expand A.R.S. § 13-925 to mirror more closely the federal law thereby allowing Arizona to receive federal funding for the improvement of criminal history records. Would address certain deficiencies by providing specific references to federal law and specifying additional information at hearings by applicants seeking to have their rights restored. This information would include their full mental health and criminal history records, character evidence on their behalf, and original circumstances that surrounded having their right to possess the firearm taken away. It requires the judge to make specific findings and conclusions and requires the court to promptly notify DPS if the application is granted.

In answer to members' questions, Ms. Proctor noted that this statute is intended solely for people who have been found to be a danger to themselves or others, who are persistently and acutely disabled, or otherwise adjudicated as mentally defective pursuant to federal law. Also, regarding concerns raised by the clerks as to whether the records from these types of proceedings would be available to the public, Ms. Proctor offered to look into the issue. Because the records pertain to a person's mental health, they would usually be kept confidential; however, restoration issues are handled in the criminal area, where confidentiality of records is addressed differently. Furthermore, questions arise in circumstances where the mental health records are located in one county and restoration proceedings are in another. A burden could be imposed on a court to check other jurisdictions for proceedings that may have taken place. Ms. Proctor stated she will investigate further the issue of records management in the scenarios discussed.

**MOTION:** To support proposal *2011-02: restoration of right to possess firearm, mentally ill persons*, subject to the concerns raised by members. Motion seconded. Approved 20-1-0. COSC-10-010

2011-03: unlawful sexual conduct; probation employees

Would establish a felony for specific probation employees, volunteers, interns, or other representatives of the court who engage in any act of a sexual nature with an offender who is on probation, on pre-trial or pre-sentence supervision, or is confined in a juvenile detention center. The offense would be a Class 2 felony if the victim is under 15 years of age, a Class 3 felony if the victim is 15-17, and a Class 5 felony if the victim is over 18.

Concern was expressed by several members that the summarized versions of some of the proposals are too general to fully commit to support or oppose them. Ms. Proctor offered to provide the full language of the statutes after the meeting.

**MOTION:** To support proposal *2011-03: unlawful sexual conduct; probation employees* as presented. Motion seconded. Approved 16-5-0. COSC-10-011

2011-04: waiver of standards; IPS; JIPS

Would allow counties to apply to the Supreme Court for a waiver of caseload and supervision requirements under specific conditions. This would enable counties to maintain a caseload ratio of one officer to 15 offenders while meeting the program requirement of one visual contact with each probationer at least one time per week.

**MOTION:** To support proposal *2011-04: waiver of standards; IPS; JIPS* as presented. Motion seconded. Approved unanimously. COSC-10-012

2011-05: unlawful transporting; moving, concealing, harboring or shielding of unlawful aliens

This proposal adds probation officers and court-appointed special advocates to the list of persons exempted from A.R.S. § 13-2929, when they are acting in their official capacity.

**MOTION:** To support proposal *2011-05: unlawful transporting; moving, concealing, harboring or shielding of unlawful aliens* as presented. Motion seconded. Approved unanimously. COSC-10-013

In closing, Ms. Proctor informed the committee that there will be proposals on probate matters to discuss at the next COSC meeting. She explained that workgroups of the Committee on Improving Probate Matters have been reviewing some probate issues and are currently drafting legislative proposals to address the issues. The current drafts can be viewed on the [committee website](#).

**B. AJACS Update** (taken out of agenda order)

Mr. Renny Rapier, AOC program manager for development of the General Jurisdiction Case Management System (GJCMS) project, provided a brief update on the status of the project. He reported that 13 courts are fully functional, and the team is currently conducting ‘clean-up’ with various issues the courts are experiencing. Training documentation is being prepared for version 3.5. Version 3.5 has been in testing, with a production version scheduled for release in early 2011. Work also is proceeding on integration with AZTurboCourt, the e-filing application.

Several committee members questioned Mr. Rapier regarding challenges their courts are having, such as running reports, calendaring, and inconsistent data on caseload lists requiring staff to manually prepare the reports. He asked that members provide a list of specific reports that are troublesome so that he can research and identify the cause. Mr. Rapier reported there will be more training available for those who need it or missed previous sessions.

**C. Revisions to Supreme Court Rule 124** (taken out of agenda order)

Ms. Melinda Hardman, court analyst in the Administrative Office of the Courts (AOC), Court Services Division (CSD), and Mr. Stewart Bruner, manager of strategic planning in the AOC Information Technology Division (ITD), presented information regarding the revision of Supreme Court Rule 124; Electronic Filing, Delivery, and Service of Documents (SCR 124). Mr. Bruner provided an overview of SCR 124, which was originally put in place in 2000 to authorize electronic filing of court documents. He detailed the current efforts to modify the rule so that it accommodates the new unified statewide e-filing system for courts. Their goal is to submit a rule petition by the January 2011 rules deadline and to present the draft petition to COSC at its November 5 meeting. This advance notice is being provided simply to alert the committee that they will be asked at that time to review and provide feedback on the draft in a very brief timeframe.

**D. Minute Entries and Victim Protection**

Honorable Ron Reinstein, chair to the Committee on Victims in the Court (COVIC), spoke about an issue brought to light by a member of the public, who recently reported finding an online minute entry in which victim information was included. Judge Reinstein referenced Arizona Supreme Court Rule 123, which governs remote electronic public access to court records. He specifically pointed to section (g)(1)(C)(ii), which lists certain documents that are excluded from electronic access because they contain sensitive data or involve a juvenile victim. He also noted the section in Criminal Rule 2.3 that directs prosecuting agencies to advise clerks of cases that are subject to this Rule 123 provision. Judge Reinstein emphasized how critical these court rules are to the protection of victims and suggested that the courts and clerks work together to prevent sensitive information from becoming electronically available.

There was much discussion as to the potential system and procedural breakdowns involved, as well as suggestions to improve or develop new methods of processing and sharing information. One suggestion was to use initials rather than full names. Practices vary among the Clerks of Court in how victims are identified in court documents. The clerks related how various agencies and organizations send their staff to the courts to access hardcopy information – some of whom bring in their own scanners - and subsequently put the information online. Members also considered the possibility that because of technological advancements, it may be necessary to rethink the parameters for public access to court records.

Judge Reinstein said that COVIC has established a subcommittee to review this issue. He will report back to COSC after the subcommittee has met.

**E. ACJA § 1-402: Minimum Accounting Standards**

Mr. Ken Kung, financial specialist Court Operations Unit (COU), Court Services Division, presented proposed changes to ACJA § 1-401: Minimum Accounting Standards (MAS). He summarized the history and composition of the Financial Review Workgroup (FAW), which began a review of MAS in 2009. He reported that the code changes he has brought to COSC for consideration are the result of the work of FAW. Mr. Kung touched on the following changes made to the code section:

- eliminated redundant standards already mandated by statute
- eliminated standards too difficult for courts to implement due to automation restrictions
- created standards for online merchant processing and electronic fund transfers
- updated language to accommodate the many electronic and automated processes
- clarified language and definitions

There was discussion about whether the 13 counties using the AJACS case management system would be immediately out of compliance with the MAS code. Mr. Kung noted that if the Arizona Judicial Council adopts the code changes, the implementation date for the changes will be January 2012.

**MOTION:** To recommend proposed ACJA § 1-401: Minimum Accounting Standards as presented. Motion seconded.  
Approved 19-2-0. COSC-10-014

**F. Supreme Court Rules Agenda Meeting**

Ms. Patience Huntwork, staff attorney, Arizona Supreme Court, reviewed rule change petitions filed under Rule 28, Rules of the Supreme Court. The petitions were addressed by the Arizona Supreme Court at its Rules Agenda meeting on August 31-September 1, 2010. The Supreme Court either adopted proposed rule changes, rejected them, or extended comment periods. Prior to the May deadline, COSC had submitted comments in opposition to petitions R-09-0016 and R-10-0018. The Supreme Court rejected both of the petitions. Members were encouraged to go to the [Court Rules Forum](#) website to review the Supreme Court's disposition of petitions and to comment on petitions that are still open.

**III. OTHER BUSINESS**

**A. Next Meeting Date**

Friday, November 5, 2010  
10:00 a.m. – 2:00 p.m.  
Arizona State Courts Building  
Conference Room 345 A/B

**B. Good of the Order/Call to the Public**

No public comments offered.